

ALSTON & BIRD

MEMO ENDORSED

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June 4, 2020

VIA ECF (Electronic Case Filing)

Hon. Edgardo Ramos, U.S. District Judge
United States District Court for the
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Starjem Restaurant Corp. v. Liberty Mutual Insurance*,
U.S.D.C., Southern District of New York, Case No. 1:20-cv-03672-ER

Dear Judge Ramos,

We represent Defendant Liberty Mutual Insurance Company (“Liberty Mutual”) in the above-referenced matter and write jointly with Plaintiff’s counsel. The parties jointly request that the Court accept this joint letter in response to Liberty Mutual’s current deadline to respond to the Complaint of June 10, 2020.

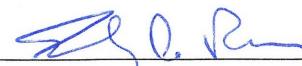
This is a putative class action on behalf of insureds of Liberty Mutual whose businesses were closed as a result of COVID-19 related government stay-at-home orders and whose claims for coverage were denied by Liberty Mutual. Plaintiff believes that jurisdiction arises under 28 U.S.C. § 1332(d).

Currently, pending before the Judicial Panel for Multidistrict Litigation (“JPML”), are competing motions to transfer and consolidate all COVID-19-related insurance claims, *In re COVID-19 Business Interruption Protection Insurance Litig.*, MDL Docket No. 2942. Plaintiff’s counsel filed a Notice of Related Action in the JPML proceeding listing this action as a related action on May 15, 2020 [Dkt. No. 199]. The JPML has set a briefing schedule related to the consolidation of these cases with responses due on June 5, 2020 and reply briefs due June 15, 2020 [Dkt. No. 156]. The JPML is likely to consider the Plaintiffs’ motions to transfer and for consolidation or coordination at the July 30, 2020 JPML Hearing Session and issue its decision shortly thereafter.

In light of the pending motions before the JPML, the parties respectfully request that this matter be stayed, including Liberty Mutual’s time to respond to the Complaint, pending a decision from the JPML in order to conserve both the parties’ and the Court’s resources until it is decided.

The parties’ joint request for a stay of all deadlines and discovery pending decision by the Judicial Panel of Multidistrict Litigation on their motions to transfer and consolidate is granted. In the event that the Judicial Panel of Multidistrict Litigation denies consolidation, this stay will expire within 7 days of that decision, and Defendant’s response to Plaintiffs’ complaint will be due within 21 days of that decision.

It is SO ORDERED.



Edgardo Ramos, U.S.D.J

Dated: 6/4/2020

New York, New York

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where this matter will proceed. *See e.g. RoyalPark Investment SA/NV v. Bank of America Corp.*, 941 F.Supp.2d 367, 370 (S.D.N.Y. 2013).¹

The parties therefore stipulate and request that the Court stay this matter in its entirety, including but not limited to (1) all scheduling deadlines pursuant to the Federal Rules of Civil Procedure, Local Rules of the United States District Court for the Southern District of New York and this Honorable Court, (2) discovery, and (3) the deadline to answer or otherwise respond to Plaintiff's Complaint, pending a ruling by the JPML concerning the transfer of this action for inclusion in MDL No. 2942 for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. In the event that the JPML denies consolidation, the stay will automatically terminate seven (7) days after the JPML's decision denying consolidation, and Liberty Mutual shall have twenty-one (21) additional days from the termination of the stay to answer, move, or otherwise plead in response to Plaintiff's Complaint. Nothing herein shall be deemed a waiver of any rights or defenses by the parties except as set forth herein.

Thank you for your attention to this matter. If the Court has any questions, we are available at our convenience.

Respectfully Submitted,

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¹ This is the first extension the parties have sought with regard to the time to respond to the Complaint. The parties agree that no party will suffer prejudice, damage, hardship, or inequity from a stay of this case at this time.

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